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09/223;901 12/31/98 WALKER

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EXAMINER

ROBINSON BOYCE, A

ART UNIT

PAPER NUMBER

2163

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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# Office Action Summary

Application No.  
09/223,901

Applicant(s)  
Walker, et al.

Examiner  
Akiba Robinson-Boyce

Group Art Unit  
2765



☒ Responsive to communication(s) filed on Dec 31, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-66 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-66 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5, 7, 9, 1

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1-3, 5-8, 10-14, 20-26, 31, 37-42, 50, 54-57, 59-66 are rejected under 35

U.S.C. 102(e) as being anticipated by Walker, et al (US Patent 6,108,639).

As per claims 1, 2, 20, 21, 24-26, 31, 50, 59, 61-66, Walker, et al discloses:

identifying a product/receiving an identification of a product/means for  
identifying...receiving a bid/a second bid/a prior bid.../transmitting a bid.../means for  
receiving...(Col. 15, lines 32-36);

determining, based on a reward rule/based on the bid.../means for  
determining...transmitting, to the bidder, an indication.../means for transmitting...(Col. 16, lines 5-  
12).

receive the/receiving a penalty...(Col. 9, lines 62-Col. 10, line 15).

a storage device...(Col. 7, lines 7-22);

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Walker, et al. does not specifically disclose that his process is repeated for a second bidder, however, this feature is inherent with his system because since the system includes more than one entity trying to make a purchase, it is logical to repeat the method for the next bidder which is the second bidder.

As per claims 3, 14, 22, Walker, et al. discloses:

determining whether the bid is greater than each of a plurality of remaining bids/prior bid...determining which of the at least one bids is a greatest...(Col. 6, lines 55-59).

As per claim 5, Walker, et al. discloses:

wherein the reward rule comprises a condition that the bidder accept an offer provided by a third party...(Col. 15, lines 59-62).

As per claim 6, Walker, et al. discloses:

a second product...receiving an acceptance of the offer...(Col. 15, line 65-Col. 16, line 11).

As per claims 7, 40, 56, Walker, et al. discloses:

wherein the...product is a service...(Col. 1, lines 35-37).

As per claim 8, Walker, et al. discloses:

wherein the service is a credit card account...(Col. 9, line 62-Col. 10, line 15).

As per claim 10, Walker, et al. discloses:

determining whether the bidder has an acceptable credit history...(Col. 10, lines 16-26).

As per claims 11, 12, Walker, et al. discloses:

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receiving at least one bid for the product from each of a plurality of remaining...wherein the step of receiving at least one bid is performed prior...(Abstract, lines 5-8).

As per claim 37, Walker, et al. discloses:

receiving personal data...(Col. 8, lines 12-21).

As per claim 38, Walker, et al. discloses:

verifying...(Col. 8, lines 22-25).

As per claims 39, 57, Walker, et al. discloses:

one of a telecommunications network and the Internet...(Col. 6, lines 41-57).

As per claim 41, Walker, et al. discloses:

providing the reward...(Col. 16, lines 15-16).

As per claim 42, Walker, et al. discloses:

receiving, from the bidder, a payment...(Col. 16, lines 17-22).

As per claim 54, Walker, et al. discloses:

receiving an identification...(Col. 15, lines 32-36);

transmitting a bid...(Col. 15, lines 38-39);

receiving a reward...(Col. 16, lines 15-16).

As per claim 55, Walker, et al. discloses:

receiving the product...(Col. 16, lines 15-16).

As per claim 60, Walker, et al. discloses:

A computer data signal...(Col. 6, lines 41-54).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15-17, 23, 28-30, 32, 33, 43-47, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, et al. (US Patent 6,018,639) as applied to claim 1 above.

As per claims 15, 16, 23, 28-30, Walker, et al. doesn't specifically disclose:

the bid from the bidder is greater than the greatest bid by a certain percentage/currency value.../the bid exceed a prior bid by a predetermined value...

Official notice is taken that it is old and well known in the auctioning art for the bid from the bidder to be greater than the greatest bid by a certain percentage or currency value. It would have been obvious to one of ordinary skill in the art for the bid from the bidder to be greater than the greatest bid by a certain percentage or currency value because it is common to have some kind of reference value in order to determine what a high bid for an item is in a particular auction.

As per claim 17, Walker, et al. doesn't specifically disclose:

wherein the reward rule comprises a condition that the bid is the first received bid...

Official notice is taken that it is old and well known in the auctioning art for the bid to be the first received bid. It would have been obvious to one of ordinary skill in the art for the bid to be the first received bid because it is traditional in auctions to receive bids in the order that they come in.

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As per claims 32, 33 Walker, et al. doesn't specifically disclose:

measuring a time...the bidder is qualified to receive the reward when the time is greater than a predetermined value...determining whether the time between the bid and the previous bid is greater than the predetermined value...

Official notice is taken that it is old and well known in the auctioning art to measuring the time between a bid and a previous bid, and to determine if the bidder is qualified to receive the reward when the time is greater than a predetermined value. It would have been obvious to one of ordinary skill in the art to measure the time between a bid and a previous bid, and to determine if the bidder is qualified to receive the reward when the time is greater than a predetermined value because this would ensure that the auction/product purchase session does not go on past a certain time.

As per claim 43, Walker, et al. doesn't specifically disclose:

wherein the payment is determined from a parallel auction...

Official notice is taken that it is old and well known in the auctioning art to determine the payment from a parallel auction. It would have been obvious to one of ordinary skill in the art to determine the payment from a parallel auction because this payment price would be close to the average price. Parallel auctions are commonly used as backbones for auctions which presently take place.

As per claim 44, Walker, et al. doesn't specifically disclose:

receiving, from the bidder, a payment to extend the auction session...

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Official notice is taken that it is old and well known in the auctioning art to receive, from the bidder, a payment to extend the auction session. It would have been obvious to one of ordinary skill in the art to receive, from the bidder, a payment to extend the auction session because it is common in the auctions of the present for a bidder to pay for his/her time. This would increase the flow of funds/payments towards the company/business.

As per claim 46, Walker, et al. doesn't specifically disclose:

terminating the reward if a higher bid is received...

Official notice is taken that it is old and well known in the auctioning art to terminate the reward if a higher bid is received. It would have been obvious to one of ordinary skill in the art to terminate the reward if a higher bid is received because since the highest bid is the prize winner, the lower bid would automatically become disqualified.

flow of funds/payments towards the company/business.

As per claim 47, Walker, et al. doesn't specifically disclose:

wherein the reward rule includes a condition that the reward be issued randomly.

Official notice is taken that it is old and well known in the auctioning art for the reward to be issued randomly. It would have been obvious to one of ordinary skill in the art for the reward to be issued randomly so it wouldn't be redeemed all at once. Since the participant would be in repeated contact with the auction/ bidding/offer session, the chances of the participant participating in other bidding sessions would increase.



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5. Claims 4, 9, 18, 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, et al. (US Patent 6,018,639) as applied to claim 1 above, and further in view of Walker, et al (US Patent 6,049,778).

As per claim 4, 9, 18, Walker, et al. '639 fails to teach the following, however Walker, et al '778 discloses:

a value of currency...(Col. 10, lines 34-38).

It would have been obvious to one of ordinary skill in the art to comprise the reward of a value of currency because this is a traditional way of rewarding a customer in the promotion art. This type of promotion will give the customer/bidder more incentive to continue to purchase/bid.

As per claim 19, Walker, et al. '639 fails to teach the following, however Walker, et al '778 discloses:

wherein the reward corresponds to a difference between the bid and a greatest bid...(Col. 10, lines 38-41).

It would have been obvious to one of ordinary skill in the art to have the reward correspond to a difference between the bid and a greatest bid because this is the amount in which the highest bidder goes over the normal bid price. Since the highest bidder is the one who is rewarded, it is logical to reward the bidder with the amount the he/she has put out to win.

6. Claims 27, 34, 35, 36, 48, 49, 58, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, et al. (US Patent 6,018,639) as applied to claim 1 above, and further in view of Barzilai, et al (US Patent 6,012,045).

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As per claim 27, 34, 35, 36, 48, Walker, et al. fails to teach the following, however Barzilai, et al discloses:

wherein historic participation corresponds to...an amount of profit...comparing a participation history of the bidder.../measuring the historic participation.../a requirement that the bidder has participated in a t least one previous...(Col. 12, line 67-Col. 13, line 24).

It would have been obvious to one of ordinary skill in the art to compare a participation history of the bidder and award the product based on the comparison because this would encourage the bidder to continue his/her participation. It would also have been obvious to one of ordinary skill in the art to use the amount of profit earned from the bidder as historic participation because this information will reveal if the bidder is likely to come back to another session. This information is also bidder-specific and will be useful when pulling up bidder files.

As per claims 49, 58, Walker, et al. fails to teach the following, however Barzilai, et al discloses:

receiving/transmitting an encrypted indication...(Col. 8, lines 20-32).

It would have been obvious to one of ordinary skill in the art to receive or transmit an encrypted indication of a time the bid was transmitted because this information would help enforce a time limit during a bidding session and would encourage bidders to submit bids early in order to receive certain types of rewards for early submissions.

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7. Claims 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, et al. (US Patent 6,018,639) as applied to claim 1 above, and further in view of Pionchon (US Patent 5,200,890).

As per claims 51-53, Walker, et al. fails to teach the following, however Pionchon discloses:

wherein the penalty rule comprises a condition that the bid is less than a current high bid/less than a predetermined value...making the bidder ineligible to continue...(Col. 7, lines 15-24).

It would have been obvious to one of ordinary skill in the art to apply the penalty rule and make the bidder ineligible to continue if the bid is less than a current high bid because the lower bid can not qualify for an award. Since the opposite of an award is a penalty, the penalty rule would be applicable in this case.

### *Conclusion*

8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba Robinson-Boyce whose telephone number is (703) 305-1340. The examiner can normally be reached on Monday-Friday from 6:30 AM-3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3988.

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An inquiry of a general nature or relating to the status of this application proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Akiba Robinson-Boyce**

**Patent Examiner**

**Group Art Unit 2765**

**November 16, 2000**



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